

This letter provides a reference to the Department's proposed rulemaking regarding the Gas Use Tax Law. See 86 Ill. Adm. Code 471.101 et seq. (This is a GIL.)

March 4, 2004

Dear Xxxx:

This letter is in response to your letter dated August 6, 2003, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Recent legislation created the Gas Use Tax Law (Senate Bill 1733). AAA is an agent supplying natural gas to end-user in Illinois. In my discussions with the Dept. of Revenue regarding the implementation of this new law, he indicated several of my questions would need to be referred to legal counsel. Following are those questions:

Can a supplier charge its customers an administrative fee for the additional administrative expense of applying and remitting the Alternative Tax Rate?

If the tax liability is over \$ 10,000, estimated payments are due beginning on the 7th of the month. Since these dates occur in advance of the receipt of the tax payment from the purchasers (and in some cases even before a bill may be issued to that purchaser due to the meter read date) can a supplier bill the purchaser for the tax in advance based on an estimated amount based on the projected deliveries that month to the purchaser? There could then be a true up the following month for any deviations between actuals and projections.

How are therms that are delivered but not used to be treated by a supplier? Is the tax applied or not on delivery volumes that are not consumed?

The law includes an exemption for "Gas used in petroleum refinery operations." Is an ethanol refinery operation exempt or not? If not, what could such an operation do to gain exemption?

Can a supplier require all of its customers to become self-assessing purchasers?

DEPARTMENT'S RESPONSE:

We regret that we cannot provide you with specific answers in the context of a General Information Letter. The Department has just recently filed proposed rulemakings regarding the Gas Use Tax Law. 86 Ill. Adm. Code 471.101 et seq. These proposed rules may be viewed on the Department's Internet website.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk